



STATE OF WASHINGTON

**PUBLIC DISCLOSURE COMMISSION**

711 Capitol Way Rm. 206, PO Box 40908 • Olympia, Washington 98504-0908 • (360) 753-1111 • FAX (360) 753-1112

Toll Free 1-877-601-2828 • E-mail: [pdcc@pdcc.wa.gov](mailto:pdcc@pdcc.wa.gov) • Website: [www.pdcc.wa.gov](http://www.pdcc.wa.gov)

TO: Members, Public Disclosure Commission

FROM: Doug Ellis  
Director of Public Outreach

DATE: January 21, 2003

SUBJECT: Continuation of Rule-Making Process

The following amended rule WAC 390-17-100 and new rule WAC 390-17-110 are presented as a continuation of the rule making activity undertaken at your August 27, 2002 and December 4, 2002 meetings respectively.

**I. WAC 390-17-100 Contribution withholding authorizations**

The Legislature, under Engrossed Senate Bill 6713, removed the requirement to annually renew a request for payroll deduction of wages or salaries for contributions to political committees or for use as political contributions. This legislative change necessitates amending WAC 390-17-100 Contribution withholding authorizations.

Washington requirements for the withholding authorization form state in part:

**The request must be made on a form prescribed by the commission informing the employee of the prohibition against employer and labor organization discrimination described in subsection (2) of this section.**

RCW 42.17.680(2) states:

**(2) No employer or labor organization may discriminate against an officer or employee in the terms or conditions of employment for (a) the failure to contribute to, (b) the failure in any way to support or oppose, or (c) in any way supporting or opposing a candidate, ballot proposition, political party, or political committee.**

The amendments to WAC 390-17-100 would allow the use of the exact language in RCW 42.17.680(2) or alternative language describing the provisions of statute.

## **II. WAC 390-17-110 Notifying employees regarding voluntary payroll deductions.**

The draft new rule states that employees from whom wages and salary are withheld under RCW 42.17.680 will be notified annually of the provisions in subsection (2) and that the employer or other person or entity responsible for the disbursement of funds in payment of wages or salaries ensure that employees be notified of the right to revoke, at any time, the request to have contributions withheld. It should be noted that nothing in the new draft rule would preclude the employer from contracting with a labor organization to provide the annual notice to employees.

The draft new rule also provides for a contact name and address where revocation requests can be sent, outlines examples of what would constitute "written notification" and, provides guidance on the use of newsletters or similar publications and the retention of records.

In a letter dated December 17, 2002, the Washington Education Association expressed concern over the potential impact the proposed draft rule may have on the privacy interests of small contributors who give less than \$25 annually to a political committee.

There is currently a preliminary injunction against the disclosure of the names and addresses of such small contributors to any third party, including the Commission (WEAPAC v. PDC). In light of this concern staff recommends amending the draft rule by eliminating the provision that requires delivery of information to the Commission upon request.

WAC 390-17-110 (4) as amended would read as follows:

**(4) Each employer or other person who provides notice pursuant to subsection (1) or (2) of this section shall maintain a copy of the annual notification and a listing of employees notified for a period of no less than five years. ~~(Copies of such information shall be delivered to the commission upon request.)~~**

Staff believes that if information on contributors is required to substantiate compliance of state law, there are alternative means available to obtain the necessary information.

### **SECTIONAL REVIEW**

**RCW 42.17.680(2)** requires that, at least annually, an employee from whom wages or salary are withheld be notified of the non-discriminatory provisions of the subsection. The subsections reads:

**No employer or labor organization may discriminate against an officer or employee in the terms or conditions of employment for (a) the failure to contribute to, (b) the failure in any way to support or oppose, or (c) in any way supporting or opposing a candidate, ballot proposition, political party,**

**or political committee. At least annually, an employee from whom wages or salary are withheld under subsection (3) of this section shall be notified of the provisions of this subsection.**

The draft new rule requires that the exact language of RCW 42.17.680(2) be part of an annual notification to employees who authorize payroll deductions for contributions under RCW 42.17.680. This subsection relates to “employer or labor organization” leaving open the possibility that the employer, the labor organization or both provide the annual notice of the non-discriminatory provision in the subsection.

**RCW 42.17.680(3)** requires that, at least annually, an employee from whom wages or salary are withheld be notified of the right to revoke at any time the authorization for payroll deduction for contributions to political committees or for use as political contributions.

The draft new rule requires that the employer ensure that revocation notification under RCW 42.17.680(3) is provided to employees. The statute reads in part:

**The employee may revoke the request at any time. At least annually, the employee shall be notified about the right to revoke the request.**

The clear statutory language of this subsection specifically identifies the “employer or other person or entity responsible for the disbursement of funds in payment of wages or salaries” as the person responsible for the action required by this subsection. The new language of chapter 156 does not identify a different responsible party.

Action by the Commission. At this point, staff is requesting the Commission allow additional time to perfect the language in both WAC 390-17-100 and WAC 390-17-110. Revised language for both rules will be presented at the February Commission meeting.